

tines del Rio *versus* H. Henson." Read first time and referred to Judiciary Committee.

On motion of Senator Westfall, the rules were suspended and Senate bill No. 535, "An act to pay counsel for prosecuting cases in favor of the State," was taken up and referred to Judiciary Committee.

On motion of Senator Westfall, the rules were suspended, and House bill No. 536, "An act supplementary and amendatory of 'an act to incorporate the Western Narrow Gauge Railway Company, and the several acts supplementary and amendatory thereto,'" was taken up and read second time.

On motion of Senator Ellis, the Senate adjourned until 10 o'clock A. M., to-morrow.

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## NINETEENTH DAY.

SENATE CHAMBER,  
AUSTIN, February 2, 1875.

Senate met pursuant to adjournment. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Wood, the reading of the journal of yesterday was dispensed with.

Senator Baker, Chairman Finance Committee, submitted the following reports:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Finance, to whom was referred Senates bill No. 587, "An act to require the presiding justices of the peace to assess the State and county taxes for 1875," have instructed me to report the same back, and recommend its passage. W. R. BAKER, Chairman.

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Finance, to whom was referred Senate bill No. 453, "An act to amend section eight of 'an act to authorize the county court of Lamar county, to build a court house and jail, etc.," have considered the same, and recommend its passage.

W. R. BAKER, Chairman.

Senator Randle, Chairman Committee on Engrossed Bills, submitted the following report :

*Hon. R. B. Hubbard, President of the Senate :*

Your Committee on Engrossed Bills have carefully examined and compared Senate bill No. 463, "An to limit the amount to be issued in bonds of the State to the International Railroad Company, and to adjust all matters of difference between the State and said company." Also, Senate bill No. 565, "An act for the relief of W.H. Coleman, late sheriff of Lavaca county." Also, Senate bill No. 569, "An act prescribing the times of holding the district courts in the Sixth Judicial District, and repealing all laws in relation thereto." Also, substitute to House bill No. 603, "An act to legalize the adoption of certain amendments to the charter of the town of Victoria, in Victoria county," and find all of same correctly engrossed.

ED RANDLE, Chairman.

Senator Culberson, Chairman Committee on Internal Improvements, submitted the following reports :

*Hon. R. B. Hubbard, President of the Senate :*

Your Committee on Internal Improvements ask leave to report back to the Senate, House bill No. 194, "An act to encourage the irrigation of lands in this State," and recommend that it do not pass.

CULBERSON, Chairman.

*Hon. R. B. Hubbard, President of the Senate :*

Your Committee on Internal Improvements ask leave to report back Senate bill No. 575, "An act to prevent persons from walking on railroads," and recommend that it do not pass.

CULBERSON, Chairman.

*Hon. R. B. Hubbard, President of the Senate :*

Your Committee on Internal Improvements ask leave to report back to the Senate, Senate bill No. 566, "An act to encourage the construction of canals and ditches," and recommend its passage.

CULBERSON, Chairman.

Senator Stirman introduced a bill entitled "An act to incorporate the Kaufman Tap Rail Road Company, and provide for the construction of same." Read first time and referred to Committee on Internal Improvements.

Senator Bradshaw introduced a bill entitled "An act to

amend the fourth section of an act entitled 'an act to establish, organize and define the powers of the Criminal District Court in and for the cities of Dallas, McKinney and Sherman,' " approved June 4, 1873; approved April 17, 1874. Read first time and referred to Judiciary Committee.

Senator Shepard introduced a bill entitled "An act to make the taxes, levied by incorporated cities, a lien upon property, and to provide for the enforcement thereof." Read first time and ordered to lie on the table.

Senator Westfall, for Committee on Enrolled Bills, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Enrolled Bills ask leave to report that they have carefully examined and find correctly enrolled Senate bill No. 445, "An act to repeal an act entitled 'an act to release certain taxes to the residents of the counties of Montague, Wise, Parker, Hood, Erath, Hamilton, Lampasas, Burnet, Blanco, Kendall, Bandera, Medina, Frio, McMullen, Duval, Starr, and all the counties lying west and southwest of the same,' " passed April 30th, 1873; also Senate joint resolution No. 560, "joint resolution ratifying the contract made by the Printing Board with John D. Elliott to do the current printing ordered by the Senate and also by the House of Representatives of the Fourteenth Legislature," and have this 2d day of February, 1875, at 10 o'clock A. M., presented the same to the Governor for his approval.

WM. H. WESTFALL, for Committee.

A message was received from the House announcing the passage of the following House bills: No. 544, "An act to establish a Criminal Court in and for the cities of Paris, Clarksville and Bonham, and for the counties of Lamar, Red River and Fannin." No. 560, "An act to amend an act entitled 'an act to amend an act entitled an act to adopt and establish a Penal Code,' approved August 26th, 1856; approved October 18, 1871." No. 577, "An act to amend article 407 of the Code of Criminal Procedure," adopted August 20, 1856. No. 580, "An act to authorize the Governor to employ a suitable detective to ferret out frauds in land claims against the State, and to make an appropriation to carry the same into effect." No. 581, "An act to amend the twelfth section of an act entitled 'an act to regulate ferries,' " approved January 23, 1850. No. 623, "An

act to attach the county of Crockett to the county of Kinney for judicial purposes." No. 621, "An act to repeal an act entitled 'an act concerning the levy of taxes for Bexar county.'" No. 593, "An act supplemental to an act entitled 'an act concerning the five per cent. United States Indemnity Bonds belonging to the State of Texas, and used by the late military board of the State.'" No. 622, "An act to repeal an act entitled 'an act defining a further cause of continuance in civil cases,'" approved April 29, 1873. No. 627, "An act to cause the county courts of the several counties in this State to furnish the county surveyor with necessary office books."

Also announcing that the House had passed a concurrent resolution, "asking for joint committee of both Houses to ascertain the amount of mileage each member of the Fourteenth Legislature is entitled to," and that the House had appointed Representatives Storey, DeMorse and Saddler on said committee.

Senator Swift introduced a bill entitled "An act for the relief of Col. A. Horton." Read first time and referred to Committee on Finance.

A message was received from the Governor.

Senator Bradshaw introduced a bill entitled "An act supplementary to and amendatory of 'an act prescribing the times of holding the district courts in the several judicial districts in the State,' approved August 10, 1870; approved March 1st, 1871." Read first time and referred to Judiciary Committee.

The following bills were taken from the President's table and referred: House bill No. 715, "An act to amend 'an act to adopt and establish a Penal Code for the State of Texas,' approved August 28, 1856," was read first time and referred to Judiciary Committee.

House bill No. 637, "An act supplemental to and amendatory of an act entitled 'an act to incorporate the Corpus Christi and Rio Grande Railway Company, and to aid in the construction of the same,'" passed May 24, 1873, was read first time and referred to Judiciary Committee.

House joint resolution No. 32, "For the relief of Rufus A. Upton, late sheriff of Refugio county," was read first time and referred to Judiciary Committee.

The hour for the consideration of the special order having arrived, to-wit, the further consideration of substitute for

Senate bill No. 463. "An act to limit the amount to be issued in bonds of the State to the International Railroad Company, and to adjust all matters of difference between the State and said company," it was taken up, the question being on the final passage of the bill.

Senator Shepard stated that he had paired off on this bill with Senator Joseph, but that if he were voting, he would vote "no."

The vote on the passage of the bill stood as follows:

YEAS—Senators Baker, Burton, Camp, Culberson, Dwyer, Flanagan, Friend, Morris, Moore, Randle, Russell, Stirman, Swift and Westfall—14.

NAYS—Senators Ball, Bradshaw, Bradley, Craven, Dillard, Davenport, Ellis, Erath, Hobby, Ireland, Parker and Wood—12.

The President announced that the bill had passed.

Senator Hobby appealed from the decision of the chair, contending that as money was appropriated in this bill, it required a two-thirds vote to pass the same.

The Senate sustained the decision of the chair by the following vote:

YEAS—Senators Baker, Burton, Camp, Culberson, Dwyer, Flanagan, Friend, Morris, Moore, Randle, Russell, Stirman, Swift and Westfall—14.

NAYS—Senators Ball, Bradshaw, Bradley, Craven, Dillard, Davenport, Ellis, Erath, Hobby, Ireland, Parker and Wood—12.

Senator Ireland gave notice that those voting against this bill would give their protest against the passage of the bill, and have them spread on the journals.

(Senator Ireland in the chair.)

House bill No. 536, "An act supplementary and amendatory of 'an act to incorporate the Western Narrow Gauge Railway Company, and the several acts supplementary and amendatory thereto,'" was taken up and read first time.

Rules suspended, bill read second time and passed to third reading.

On motion of Senator Westfall, the rules were further suspended, bill read third time and passed by the following vote:

YEAS—Senators Ball, Baker, Bradley, Burton, Camp, Culberson, Dillard, Dwyer, Ellis, Flanagan, Friend, Hobby,

Ireland, Morris, Moore, Randle, Shepard, Stirman, Westfall and Wood—20.

NAYS—Senator Bradshaw—1.

On motion of Senator Baker, the rules were suspended and Senate bill No. 587, "An act to require the presiding justices of the peace to assess the State and county tax for 1875," was taken up and read second time.

The question being on the engrossment of the bill, the Senate refused to engross it by the following vote:

YEAS—Senators Baker, Camp, Culberson, Erath, Flanagan, Hobby, Morris, Russell and Wood—9.

NAYS—Senators Ball, Bradshaw, Bradley, Craven, Dillard, Davenport, Ellis, Friend, Ireland, Moore, Parker, Randle, Shepard, Stirman, Swift and Westfall—16.

Senator Stirman introduced a bill entitled "An act to authorize the town of Kaufman to aid in the construction of the Kaufman Tap Rail Road." Read first time and referred to Committee on Internal Improvements.

On motion of Senator Moore, the rules were suspended and House bill No. 544, "An act to establish a Criminal Court in and for the cities of Paris, Clarksville and Bonham, and for the counties of Lamar, Red River and Fannin," was taken up, read first time and referred to Judiciary Committee.

On motion of Senator Shepard, the rules were suspended and the bill introduced by him this morning, entitled "an act to make the taxes levied by incorporated cities a lien upon property, and to provide for the enforcement thereof," was taken up, read second time and ordered engrossed. Rules further suspended, bill read third time and passed.

(The President in the chair.)

On motion of Senator Westfall, the rules were suspended and Senate bill No. 556, "An act for the protection of game and fish," was taken up and read second time.

The question being on the engrossment of the bill, the Senate refused to engross the same by the following vote:

YEAS—Senators Baker, Bradshaw, Burton, Camp, Culberson, Dwyer, Ellis, Flanagan, Ireland, Randle and Westfall—11.

NAYS—Senators Ball, Bradley, Craven, Dillard, Davenport, Erath, Friend, Hobby, Morris, Moore, Parker, Shepard, Stirman, Swift and Wood—15.

On motion of Senator Swift, the rules were suspended

and Senate bill No. 539, "An act to regulate the fees of office," was taken up and referred to Finance Committee.

On motion of Senator Stirman, the rules were suspended and Senate bill No. 308, "An act for the relief of such counties and towns as have voted donations in aid of the construction of railroads, or other works of internal improvements, etc.," was taken up, read second time and ordered engrossed.

Rules further suspended, bill read third time and passed.

On motion of Senator Ireland, the rules were suspended and Senate bill No. 459, "An act to incorporate the Guadalupe Cotton Manufactory," was taken up, read second time and ordered engrossed.

Senator Friend, by leave, introduced a bill entitled "An act to amend section one of 'an act concerning notaries.'" Read first time and referred to Judiciary Committee.

A message was received from the House announcing the passage of substitute to House bill, No. 546, "An act to authorize the county court of Karnes county to build bridges across the San Antonio and Cibolo rivers, and issue bonds in aid thereof;" also, the passage of Senate bill No. 524, "An act to amend section eight of an act entitled 'an act to incorporate the Gulf, Colorado and Santa Fe Railroad Company, and to grant land in aid of the construction of the same,'" passed May 28, 1873, with amendments by the House.

On motion of Senator Ellis, the rules were suspended and Senate bill No. 471, "An act to amend 'an act to encourage stock raising,'" approved March 23, 1874, pending amendments by the committee, was taken up and read second time.

The amendments of the committee were adopted.

On motion of Senator Erath, the bill was made special order for to-morrow at 11 o'clock A. M.

The following protest was ordered spread on the journals of the Senate:

SENATE CHAMBER,       )  
AUSTIN, February 2, 1875.   )

The undersigned members of the Senate are constrained to vote against Senate bill No. 463, granting bonds to the International Railway Company, for the following reasons:

1. The original act granting bonds to that company was in our opinion procured by fraud and corruption.

2. The Twelfth Legislature was in no sense representing the people of Texas.

3. The present bill is infinitely worse for the State than the original act, in that it does not contemplate the speedy completion of said road to the Rio Grande.

4. By a failure to go on west of San Antonio, the grossest injustice is done to that country, while the people residing there have to bear their proportion of the bonds enforced by this bill, they get no benefits therefrom.

5. We have tendered fair and more than equitable terms of settlement in the bills that have been voted down.

6. There is no power under the constitution to grant money subsidies to private corporations, and to tax the people to pay said subsidies.

7. Said corporation is essentially, and to all intents and purposes, a foreign corporation, having its principal office in another State.

8. The burdens that are now, and which will be necessarily imposed for frontier defense, bureau of immigration, common schools, to pay the interest on our outstanding debts, pension claims, General Land Office, the various asylums and current expenses of the government, are alarming and burdensome, without taxing the people some twelve million dollars to give to private corporations.

9. The company and the peculiar friends of the bill have rejected every proposition calculated to secure the completion of said road west of the Colorado river.

JOHN IRELAND,	L. D. BRADLEY,	J. H. DAVENPORT,
O. ELLIS,	SETH SHEPARD,	A. J. BALL,
W. D. WOOD,	G. B. ERATH,	EDWIN HOBBY,
J. E. DILLARD,	AMZI BRADSHAW,	N. S. CRAVEN.

The following remarks were made by Senator Russell, on the passage of substitute for Senate bill No. 463, "An act to limit the amount in bonds to be issued to the International Railroad Company, etc."

MR. PRESIDENT: Throughout the discussion and consideration of the pending bill, I have struggled to have some strong guarantee engrafted thereon, that this company would construct the road westward to the city of San Antonio and to the Rio Grande river. In this I have failed. The bill is not in the shape that I like. The right of the people, under this compromise, to have the whole road constructed, is not sufficiently guarded.

Strict justice is not meted out to the west. But recognizing the issue as a great State question—one seriously affecting the fair fame and credit of our State—and one which it is the interest of the whole people to have adjusted and finally settled, so far as the legislative branch of the government can do so, I yield my individual preference, and to promote the great object sought to be obtained by this proposition, I vote *aye*.

On motion of Senator Shepard, the rules were suspended, and Senate bill No. 455, "An act supplemental to 'an act to establish and maintain a system of public free schools in the State of Texas,'" passed April 30, 1873, was taken up, read second time and ordered engrossed.

On motion of Senator Dwyer, the rules were suspended, and bill read third time.

On motion of Senator Parker, the bill was referred to Judiciary Committee.

On motion of Senator Ireland, the rules were suspended, and Senate bill No. 556, "An act to encourage the construction of canals and ditches," was taken up, one hundred copies ordered printed, made special order for Friday next, at 11 o'clock A. M., and to continue as said special order from day to day until disposed of.

Senator Hobby presented the following protest, and asked that it be spread on the journals of the Senate.:

We, the undersigned Senators, dissent from and protest against the decision of the President of the Senate to-day, that the bill known as "An act to limit the amount to be issued in bonds of the State to the International Railroad Company, and to adjust all matters of difference between the State and the company," has passed the Senate; the vote on said bill being on its passage. Yeas, 14; nays, 12.

First—Because the bill, as far as it can do so, contains, in our opinion, an appropriation of a specific sum of money which is donated to the International Railroad Company, and did not pass the Senate by a two-thirds vote.

Second—Because the constitution requires, expressly, that all appropriations for individual or private purposes shall be made by a two-thirds vote only.

Third—The appropriation is for an individual purpose, purely private, and is in violation of the letter and spirit of the constitution; and we regard the precedent as fraught

with great injury to the public, and ask that this protest be spread upon the journals of the Senate.

EDWIN HOBBY,	AMZI BRADSHAW,	W. D. WOOD,
SETH SHEPARD,	G. B. ERATH,	O. ELLIS,
J. E. DILLARD,	C. A. PARKER	L. D. BRADLEY,
J. H. DAVENPORT,	A. J. BALL,	N. S. CRAVEN,
JOHN IRELAND.		

On an appeal from the decision of the President, by the Senator from Tyler, holding that a two-thirds vote was not required to pass the bill, the President said :

The bill which has just passed the Senate by a vote of 14 ayes to 12 nays is, "A bill to be entitled 'An act to limit the amount to be issued in bonds of the State to the International Railroad Company, and to adjust all matters of difference between the State and said company.'" The chair holds that a two-thirds vote is not required to pass the bill, and that a majority of this body, as in ordinary cases, is alone required. Our constitution provides (see art. 12, sec. 50; art. 12, sec. 6) that, 1. "A vote of two-thirds of the Senate shall be required for the final passage of amendments to the constitution." 2. "Bills making appropriation for private or individual purposes, or for purposes of internal improvement." 3d. Bills exempting property from taxation. 4. Bills creating private corporations. 5. Bills to revoke or repeal private corporations. 6. Bills to authorize the State to borrow money. 7. Bills that have been returned by the Governor, with his objections. 8. Bills to reduce a county to a less area than nine hundred square miles, and a few other cases wherein a two-thirds vote is required, but not pertinent to the case at bar.

The chair is clearly of the opinion that the present bill does not come within either of the above sections of our constitution. It "appropriates" neither money or lands, but on the contrary, "limits" and *restricts* the *original* appropriation made by the *charter*. It is not *contended* that this charter is dead or repealed, or declared null and void by our courts; if so, there would then be an end of this vexed question. The clear object of this bill, as expressed in its "caption," as well as in all its sections, is to *limit* an appropriation *already* made by a former Legislature to *reduce* (by a compromise) six millions of bonds and

nearly a hundred thousand dollars of accrued interest, to *three millions of bonds without interest.*

Instead of "*appropriating* money or lands," it proposes to say to this corporation, that "the State will not pay you by legislative act more than three millions against your original claim of \$6,000,000, principal and interest," and this proposition, when accepted by the corporation, to be of full force and effect.

There is no new tax levied by this bill; that was provided in the original act of charter. Even if it did so provide, a two-thirds vote would not be required, because no general appropriation bill or tax bill even requires more than a majority vote under our constitution and laws. The President of the Senate is following in the line also of safe "*precedent,*" which in Senates, as well as in courts, always invokes our respect and consideration. This body will remember that at the last session of this Legislature, a similar but more stringent bill was passed, not merely "*limiting* the bonds to be issued," but also "*providing for the payment of the same,*" including nearly a million of interest, accrued since the original charter passed, in 1870. The Senate passed that bill by a vote of fifteen ayes to seven nays, as follows:

YEAS—Senators Baker, Burton, Camp, Dwyer, Ellis, Flanagan, Friend, Ireland, Joseph, Ledbetter, Randle, Russell, Stirman, Swift and Westfall—15.

NAYS—Senators Allison, Ball, Bradley, Moore, Parker, Shepard and Wood—7.

From this vote an appeal was taken from the decision of the then and present President, because of his decision that a two-thirds vote was *not* required. Those voting to sustain the decision of the chair were:

AYES—Senators Ball, Baker, Burton, Camp, Dwyer, Ellis, Flanagan, Friend, Ireland, Joseph, Ledbetter, Randle, Russell, Shepard, Stirman, Swift and Westfall—17.

NAYS—Senators Allison, Bradshaw, Bradley, Morris, Moore, Parker and Wood—7.

(See Senate journals, pages 240, 241, first session Fourteenth Legislature.)

My decision was not only sustained then by this body, but was sustained by the distinguished Speaker of the House of Representatives, and concurred in decisively by the able body over which that officer presides. If right

then, it is surely right now, when, by the express terms of the bill, no appropriation is made to meet any accrued interest on bonds. In deference always to the honorable Senators who differ from the chair, but with an earnest and conscientious desire to discharge my duty as presiding officer of this body, I have made this decision.

On motion of Senator Culberson, the Senate adjourned until 10 o'clock A. M. to-morrow.

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## TWENTIETH DAY.

SENATE CHAMBER,  
AUSTIN, February 3, 1875. }

Senate met pursuant to adjournment ; roll called ; quorum present. Prayer by the chaplain.

On motion of Senator Westfall, the reading of the journal of yesterday was dispensed with.

Senator Dillard moved that the speech of Senator Russell made on yesterday, on the passage of substitute for Senate bill No. 463, "An act to limit the amount to be issued in bonds to the International Railroad, etc.," and entered on the journal, be expunged therefrom.

Lost by the following vote :

YEAS—Senators Baker, Bradshaw, Dillard, Hobby, Shepard, Westfall and Wood—7.

NAYS—Senators Ball, Bradley, Burton, Camp, Culberson, Craven, Davenport, Ellis, Erath, Flanagan, Friend, Ireland, Morris, Moore, Parker, Randle, Stirman and Swift—18.

Senator Russell was excused from voting.

Senator Ireland gave notice that he would spread on the journals his reasons for voting in the negative on the above question.

Senator Westfall presented the petition of Geo. H. Gray, in regard "to his claims as legal clerk of the Supreme Court." Read and referred to Judiciary Committee.

Senator Flanagan presented a petition from citizens of Harmony Hill, Texas, "Asking that said town be incorporated, and that the sale of intoxicating liquors be prohibited within two miles of said town." Read and referred to Committee on Education.